



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

July 10, 2003

Mr. Steven M. Kean  
Senior Assistant City Attorney  
City of Tyler - Legal Department  
P.O. Box 2039  
Tyler, Texas 75710

OR2003-4769

Dear Mr. Kean:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 186817.

The City of Tyler (the "city") received a request for "the results of the blood test performed on [a certain individual] as a result of the traffic stop on [a certain date]." You state that the "request seeks all arrest records, videos, narratives, reports, and any and all records involved in criminal charges, including substance abuse/HIV records, if applicable, relating to" the referenced traffic stop. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The requestor submitted with his request an authorization for release of confidential information signed by the individual whose blood was tested. That release authorizes the Tyler Police Department to release to the requestor "any and all records or documents of any kind in its possession. I specifically mean to include, but not to limit this authorization to, all arrest records, videos, narratives, reports, and any and all records involved in criminal charges, including substance abuse/HIV records, if applicable." However, despite the breadth of the information authorized for release, we read the request as a request for only the blood test results in this case.

You raise section 552.108 of the Government Code. You state that the information relates to a pending criminal case. However, a governmental body may not use one of the

exceptions in the Public Information Act to withhold information that a statute other than the Act expressly makes public. *See* Open Records Decision No. 623 (1994); *see also* Open Records Decision No. 451 (1986) (specific statute that affirmatively requires release of information at issue prevails over litigation exception). Section 724.018 of the Transportation Code states that, “[o]n the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person’s attorney.” Transp. Code § 724.018. Because the person who gave the specimen authorized the Tyler Police Department to release all records to the requestor, section 724.018 requires the city to release the blood test results to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

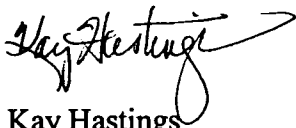
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Kay Hastings", with a stylized flourish extending from the end.

Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/seg

Ref: ID# 186817

Enc: Submitted documents

c: Mr. Frank Elder, III  
Advocacy, Incorporated  
211 West Tyler Street, Suite A  
Longview, Texas 75601  
(w/o enclosures)